THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 12433 of 2002

Dated: 28.11.2007

Between:

P. Srerama Prasanna

… Petitioner

AND

The Govt., of Andhra Pradesh,
Rep., by its Secretary, Roads & Buildings,
Secretariat, Hyderabad & others.

… Respondents

Counsel for the petitioner : Sri K. Soma Konda Reddy

Counsel for the respondents : Assistant Government Pleader for Transport, Roads & Buildings

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WRIT PETITION No. 12433 of 2002

ORDER:-

This writ petition is filed for a writ of mandamus to declare the action of the respondents in laying road from Gooty to Tadipatri on the land belonging to the petitioner in Sy.No.107 of Rayalachervu Village, Yadiki Mandal, Anantapur District, as illegal and violative of Article 300-A of the Constitution of India.

In the affidavit filed in support of the writ petition, the petitioner claims that she is the absolute owner of an extent of Ac.1-46 cents in Sy.No.107 of Rayalachervu Village, Yadiki Mandal, Anantapur District, having succeeded to the said property under registered will dated 27.07.1995 from her mother Smt. P. Kalamma. She also averred that pattadar passbooks were issued in her name and that the land is a wetland. She further averred that respondent No.3 issued notification dated 31.03.2000 under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') and that in the said notification her land is not shown for acquisition. She specifically averred that in November, 2001 the road was laid on the major portion of her land and on 01.05.2002 she got a legal notice issued to respondent No.1 and Revenue Divisional Officer, Anantapur, (for short, 'the RDO') wherein they were called upon to acquire the land and pay compensation with all the benefits under the provisions of the Act and that failing which she will approach the appropriate Court of law for redressal of her grievance. As respondent No.1 and the RDO have not taken

action in response to her legal notice, she filed the present writ petition.

Though notice was taken on behalf of respondent Nos.2 and 4 on 11.07.2002 and this Court admitted the writ petition and issued notices to all the respondents on 05.08.2002, no counter-affidavits have been filed on behalf of the respondents.

Heard Sri K. Soma Konda Reddy, learned counsel for the petitioner and the learned Assistant Government Pleader for Transport and Roads and Buildings.

The specific contention raised by the petitioner that substantial part of the land out of Ac.1-46 cents in Sy.No.107 of Rayalachervu Village, Yadiki Mandal, belonging to her has been utilized for laying the road, is not controverted by way of any counter-affidavits filed by the respondents. Though a copy of legal notice dated 01.05.2002, a reference to which was made in the affidavit of the petitioner, was not filed along with the writ petition, the learned counsel, at the hearing, passed on the office copy of the legal notice along with the acknowledgements, which show that respondent No.3 and the RDO, Anantapur received the same, but they have not made any effort to see that either a reply was given or to explain the reasons for not giving such reply. I have therefore no hesitation to accept the contention of the petitioner that a substantial part of her land in Sy.No.107 of Rayalachervu Village, Yadiki Mandal was utilized for the purpose of laying a road.

Under Article 300-A of the Constitution of India, the State cannot deprive a person of his property without authority of law. Under the provisions of the Act, procedure is contemplated for acquisition of lands and payment of compensation. It is therefore not permissible for the respondents to deny the petitioner of her land, without following the procedure prescribed under the Act. Such an action is un-constitutional and ex-proprietary.

In the premise aforesaid, the writ petition is allowed. The respondents are directed to initiate immediate steps to acquire the land of the petitioner under the provisions of the Act within a period of six (6) weeks from the date of receipt of a copy of this order, complete the proceedings and pay compensation to the petitioner within a period of twelve (12) weeks thereafter.

As a sequel to disposal of the writ petition in the manner indicated above, WPMP.No.15433 of 2002 filed by the petitioner for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 28.11.2007
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